

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

IN RE:  
BRIMONIDINE PATENT LITIGATION

C.A. 07-md-01866 GMS

**NOTICE OF DEPOSITION OF DEFENDANT APOTEX CORP. PURSUANT TO  
FEDERAL RULE OF CIVIL PROCEDURE 30(b)(6)**

**PLEASE TAKE NOTICE** that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Plaintiff Allergan Inc. ("Plaintiff") by its counsel, will take the deposition of Defendant Apotex Corp. ("Apotex" or "Defendant") at 515 E. Las Olas Boulevard Suite 1300, Ft. Lauderdale, FL 33301, commencing at 9:00 a.m. on August 25, 2008, or at such other place and time as may be agreed upon by counsel. The deposition will continue from day to day until completed. Some or all of the deposition testimony may be recorded by stenographic, audio, audiovisual, video, and/or real-time computer means.

The subject matters of the deposition are enclosed herein. Pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Defendant is obligated to designate one or more officers, directors, managing agents, or other persons who consent to testify on its behalf concerning the matters set forth in the attached Appendix. Plaintiff requests that Defendant provide, on or before August 11, 2008, a written designation of the names and positions of the officers, directors, or other persons who are most competent to testify concerning the topics set forth below, and for each person designated, the matters on which he or she will testify.

## **DEFINITIONS**

The definitions set forth in Plaintiff's First Set of Interrogatories shall apply as if fully set forth herein.

### **RULE 30(b)(6) TOPICS FOR DEPOSITION**

1. The formulation of Defendants' proposed brimonidine products.
2. The development of Defendants' proposed brimonidine products.
3. The intended use of Defendants' proposed brimonidine products.
4. All testing of Defendants' proposed brimonidine products, or any formulations considered, tested, or employed in the development of Defendants' proposed brimonidine products, or any components of Defendants' proposed brimonidine products.
5. The selection of the components of Defendants' proposed brimonidine products, including the reason(s) for the selection.
6. The selection of the pH of Defendants' proposed brimonidine products.
7. Each component in Defendants' proposed brimonidine products, including its concentration, its function(s) in the formulation, and its source(s).
8. Defendants' interactions with the FDA regarding Defendants' proposed brimonidine products, ANDA No. 78-479, ANDA No. 78-480, and/or Allergan's ALPHAGAN® P 0.15% and 0.1% products, including all communications with the FDA regarding ANDA Nos. 78-479, ANDA No. 78-480, and/or Allergan's ALPHAGAN® P 0.15% and 0.1% products.
9. Any clinical trials or protocols for clinical trials conducted or prepared for ANDA No. 78-479, ANDA No. 78-480, or in connection with the development of Defendants' proposed brimonidine products.

10. Any bioequivalence and/or bioavailability studies or testing conducted or prepared for ANDA No. 78-479, or ANDA No. 78-480, or in connection with the development of Defendants' proposed brimonidine products.

11. Any irritancy or animal studies or testing conducted or prepared for ANDA No. 78-479, or ANDA No. 78-480, or in connection with the development of Defendants' proposed brimonidine products.

12. The alleged therapeutic equivalence of Defendants' proposed brimonidine products to Allergan's ALPHAGAN® P 0.15% and 0.1% products.

13. All testing of Allergan's ALPHAGAN® P 0.15% and 0.1% products.

14. The differences between Defendants' proposed brimonidine products and Allergan's ALPHAGAN® P 0.15% and 0.1% products.

15. When Defendants became aware of the patents-in-suit.

16. Defendants' knowledge of the patents-in-suit.

17. Defendants' business reasons for developing the proposed brimonidine products and filing ANDA Nos. 78-479 and 78-480.

18. Defendants' interactions with doctors and/or healthcare professionals with regard to the proposed brimonidine product or potential brimonidine based ophthalmic products.

19. The search for and collection of documents requested by Plaintiff in this litigation.

20. The search for and collection of documents produced by Defendants in this litigation.

**CERTIFICATE OF SERVICE**

I hereby certify that on August 6, 2008, I electronically filed with the Clerk of Court the NOTICE OF DEPOSITION OF DEFENDANT APOTEX CORP. PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 30(b)(6) using CM/ECF which will send electronic notification of such filing(s) to the following counsel.

**BY EMAIL AND HAND DELIVERY**

Frederick L. Cottrell, III  
Kelly E. Farnan  
RICHARD, LAYTON & FINGER  
One Rodney Square  
P.O. Box 551  
Wilmington, DE 19899

**BY EMAIL AND HAND DELIVERY**

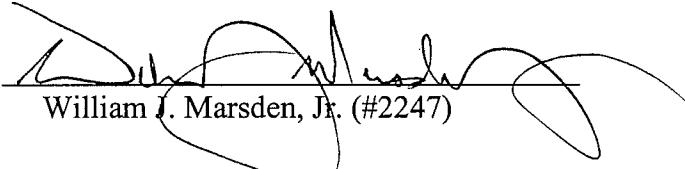
Richard L. Horwitz  
David E. Moore  
POTTER ANDERSON & CORROON LLP  
Hercules Plaza  
1313 North Market Street, 6th Floor  
P.O. Box 951  
Wilmington, DE 19899

**BY EMAIL AND FIRST CLASS MAIL**

Daniel G. Brown  
Arthur L. Hoag  
Barry S. White  
David A. Zwally  
Brian J. Malkin  
FROMMERM LAWRENCE & HAUG LLP  
745 Fifth Avenue  
New York, New York 10151

**BY EMAIL AND FIRST CLASS MAIL**

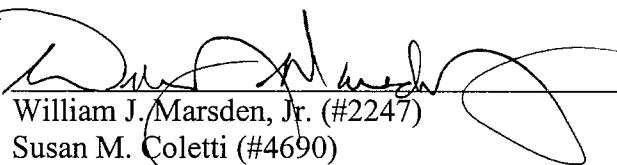
Robert B. Breisblatt  
Stephen P. Benson  
Joanna R. Stevason  
Jeremy C. Daniel  
KATTEN MUCHIN ROSENMAN LLP  
525 West Monroe Street  
Chicago, IL 60661-3696

  
William J. Marsden, Jr. (#2247)

Dated: August 6, 2008

FISH & RICHARDSON P.C.

By:



William J. Marsden, Jr. (#2247)  
Susan M. Coletti (#4690)  
919 N. Market Street, Suite 1100  
P.O. Box 1114  
Wilmington, DE 19899-1114  
Telephone: (302) 652-5070  
Email: [marsden@fr.com](mailto:marsden@fr.com)  
[scoletti@fr.com](mailto:scoletti@fr.com)

Jonathan E. Singer  
Michael J. Kane  
Deanna J. Reichel  
FISH & RICHARDSON P.C.  
60 South Sixth Street, Suite 3300  
Minneapolis, MN 55402  
Telephone: (612) 335-5070

Juanita Brooks  
FISH & RICHARDSON P.C.  
12390 El Camino Real  
San Diego, CA 92130  
Telephone: (858) 678-5070

W. Chad Shear  
FISH & RICHARDSON P.C.  
1717 Main St., Suite 5000  
Dallas, TX 75201  
Telephone: (214) 747-5070

**ATTORNEYS FOR PLAINTIFF  
ALLERGAN, INC.**